

Application No. 10/649079
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Amendment
Attorney Docket No. S63.2Q-9072-US02

Remarks

This Amendment is in response to the Office Action dated May 5, 2004. Each issue in the official action is discussed in detail below.

§102 Rejections

Claims 30-32, 34-35 and 38-39 were rejected under 35 USC §102(b) as being anticipated by Staehle (US 6143021). It is asserted that Staehle discloses a medical device delivery system (Fig. 7) comprising a manifold (14) having a rack (37 (it is believed that Examiner meant 38)) and pinion (38 (it is believed that Examiner meant 37)) and inner tube (22) extending distally of the manifold; a retractable sheath (23) and a pull wire (25) extending proximally from the retractable sheath to the manifold, the pull-wire attached to the pinion (via the rack teeth).

Applicant traverses because the cited art fails to provide for each and every element of the claim. Among other things, the cited reference does not disclose a wire, which is attached to a retractable sheath. The element (25) used in the rejection for disclosing a wire is a shaft which conjugates with the limb 18 and arm 14 to prevent relative rotary motion between them with respect to the axis A—A (see col. 5, lines 30-33). Further, even if the shaft (25) of the cited art is considered to be a pull-wire, it is not “attached to the pinion”, as required by claim 30. The shaft (25) of the cited art has teeth formed therein to form a rack (38). The rejection argues that shaft 25 is “attached” to the pinion via the rack (38). This cannot be said. The rack “engages” the pinion, but it is not attached to the pinion. The two move relative to one another such that there is no attachment point. As such, the cited reference does not teach each and every element of the claimed invention and withdrawal of the rejection is requested.

Dependent claims 31-32, 34-35 and 38-39 are similarly not anticipated for the above mentioned reason, as well as others. As such, further response to the arguments asserted regarding claims 34, 38 and 39 is unnecessary to overcome the rejection.

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§103 Rejections

Claims 30-33 and 35-37 were rejected under 35 USC §103(a) as being unpatentable over Staehle in view of Williams et al. (US 5308316). It is asserted in the official action that Staehle discloses the invention as claimed. However, it is further asserted, Staehle does not disclose a pull wire windable on a spool portion of a pinion, but Williams et al. teach another medical device delivery system (fig. 1) including an actuator assembly on which a rack and pinion with a spool portion winds a windable pull-wire as a means for actuating the delivery system and it would have been obvious to substitute the actuator assembly as taught by Williams et al. in the delivery system of Staehle.

It is believed that the designation of claims in this rejection is in error. Claims 30-32 and 35 were already rejected as being anticipated by Staehle. Further, only claims 36 and 37 refer to a spool portion. Clarification is requested. Nevertheless, Applicant responds to the rejection, as articulated, as follows.

The rejection fails because, as discussed above in response to the §102 rejection, among other reasons, Staehle does not disclose the invention as claimed except a pull wire windable on a spool portion of a pinion, as required for the §103 rejection. As such, withdrawal of the rejection is requested.

The claims are patentable over the combination of references for other reasons, the discussion of which is unnecessary in overcoming the rejection in light of the comments above. Further response to the arguments asserted regarding claims 32-33 and 37 is unnecessary to overcome the rejection.

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The application is now believed to be in condition for allowance. If any further issues arise, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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